

IN THE MATTER OF

TIMOTHY DOWNING,
SMITHFIELD, MERCER, ROME
KENNEBEC AND SOMERSET COUNTIES
NORTH POND
L-30629-36-A-N

) REGULATION OF WATER
) LEVELS AND MINIMUM
) FLOWS
)
)

As President of the North Pond Association, I am presenting on its behalf these objections to Pre-filed Testimony submitted by Timothy Downing, Petitioners Spokesperson:

1. Under 1. Basis of Petition

Request to strike lines 10, 11 from the record "By the early '90's this position became more extreme as a second beam was added without permission from or notice to Maine DEP."

Exhibit DEP-3 Department Order #L-14807-02-A-N dated October 1, 1987, Water Quality Certification This order states that: "Three steel beam flashboards will be stacked ..."
The order was not for one beam. There is no evidence for the statement in lines 10 and 11.

2. Under 1. Basis of Petition

Request to strike lines 25 through 44 from the record beginning "It was only yesterday... ending with the sentence "By doing so, NPA created a state defined dam based on the height of the dam and the volume of water that this dam was holding back."

Timothy Downing has provided no evidence of "numerous requests of the NPA to share this document" (referring to the above Exhibit DEP-3). In fact, Timothy Downing was a member of the North Pond Association Board of Directors from his election to the board on August 14, 2023 at the NPA Annual Meeting until his resignation from the board on January 8, 2024. During his tenure on the NPA Board, he had full access to the NPA records which included the Department Order #L-14807-02-A-N contained within the NPA Board shared Google Drive as entered by the then NPA Secretary, Caroline Harlow, on August 24, 2022. The petitioner suggests incorrectly that the North Pond Association was somehow withholding this document or information.

In personal communication with me, Claire Briggs, Hydropower Specialist with Maine Dept. of Environmental Protection, requested that I measure the dam at the southern end of North Pond. As President of the NPA and representing the owner and operator of the dam, I provided the requested height and length of the dam as well as the photos taken on June 24, 2024. At that time, she told me that due to a change in the Maine DEP rules as of 2021 the structure as measured is considered a dam and is therefore jurisdictional. This evidence was provided by me in good faith and in full cooperation with Ms. Brigg's request.

Exhibit DEP-4

It should be noted that the Maine DEP definition of what constitutes a dam was revised in 2021 under TITLE 38 WATERS AND NAVIGATION and prior to that the North Pond dam on Great Meadow Stream was not considered jurisdictional.

Exhibit DEP-1

3. Under 3. Water Level

request to remove the photo from the record labelled "Whale Rock"

There is no date to indicate when this was taken and therefore not a valid frame of reference.

4. Under 5. Erosion

request to remove from the record the photo of bank erosion and steps

There is no date on this photo nor is there evidence that dam management led to the damage shown in the photo.

5. Request to remove the Attachment labelled "Shoemaker to NPR"

Mr. Shoemaker's email : "Hello Hans,.....I did not receive any response from them (NPA) which was troubling to me. Kindly, Stephen"

This email was sent to the North Pond Association on 9/15/2023 at 3:21PM. Please see that in fact Caroline Harlow, NPA Secretary, did respond to Mr. Shoemaker on 9/15/2023 at 3:31PM. By including this statement, the petitioner implies that the North Pond Association is not responsive to or cooperative with interested parties.

See Exhibit A

For the record as a procedural matter, the Pre-filed Testimony of Timothy Downing appears to be notarized by a family member, Derek Downing. If there is a pecuniary interest, this may represent a conflict of interest. The North Pond Association is not; however, requesting that the entire testimony be stricken from the record.

Respectfully submitted,



Catherine (Katie) E Meikle, NPA President
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(207) 615-7025



I do hereby attest this submission in entirety and content thereof is true, accurate, and complete to the best of my knowledge.

Catherine E. Meikle
Signature

Catherine E Meikle
Name

2/18/2025
Date

Maine Notary Acknowledgements

State of Maine

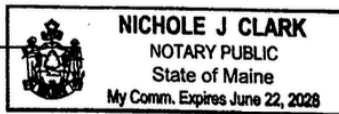
County of Somerset

The foregoing instrument was acknowledged before me the 18 Feb 24
at Smithfield, Maine by Catherine E Meikle
Name

to be his/her free act and deed.

Nichole J Clark
Notary Public Signature

Name



Notary Public, State of Maine

My commission expire _____
Date



